



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Opposing SB 402 (Burton) regarding compulsory and binding arbitration for Police and Fire employees

MEETING DATE: April 5, 2000

SUBMITTED BY: City Manager

RECOMMENDED ACTION: That the City Council Adopt the Resolution opposing SB 402 (Burton) regarding compulsory and binding arbitration for Police and Fire employees.

BACKGROUND INFORMATION: SB 402 is legislation introduced last session by Senator John Burton that Mandates a system of compulsory and binding arbitration for the resolution of collective bargaining disputes with Police and Fire employees. As currently written, the compulsory and binding arbitration would apply to salary, benefits, and all other terms and conditions of employment. Attached is a letter from the League of California Cities requesting Council opposition to SB 402. Also provided by the League is background information regarding the legislation, and a letter from the California Police Chief's Association opposing SB 402.


FUNDING: Not Applicable

Respectfully,


H. Dixon Flynn
City Manager

Attachment

APPROVED: _____


H. Dixon Flynn -- City Manager



Better Cities – A Better Life

League of California Cities

1400 K Street
Sacramento, CA 95814
916.658.8200
FAX 916.658.8240
www.cacities.org

March 1, 2000

TO: Mayors, Council Members, City Managers, Police Chiefs and Human Resources Directors. (PLEASE ROUTE!)

FROM: Chris McKenzie, Executive Director
Dwight Stenbakken, Legislative Director
Jennifer Cervantez, Policy Analyst

RE: Compulsory and Binding Arbitration for Police and Fire Employees. SB 402 (Burton) – Status: More Action Needed!

ACTION REQUESTED

1. Take Formal Action to **Adopt a Resolution Opposing SB 402.** (Sample Attached)
2. Continue Contacts with Media about Negative Impact of **SB 402** on City Services.
3. Continue to Secure Op-Ed Pieces from Business Representatives and Other Community Groups Against **SB 402.**

Where's the Binding Arbitration Bill? SB 402 is legislation introduced last session by Senator John Burton, that mandates a system of compulsory and binding arbitration for the resolution of collective bargaining disputes with police and fire employees. The measure is on the "Inactive File" on the Assembly floor, but can be taken up for debate at any time with only 24 hours notice. This means that **SB 402** is a "threat" for the entire 2000 session that adjourns on August 31, 2000.

The Politics of SB 402. The bill is currently stalled in a dispute between the sponsors, the Police Officers Research Association of California (PORAC) and the Professional Firefighters of California; and the Governor's office. The Governor will not sign the bill in its present form. He will sign a bill that is narrowed to apply the arbitration process to **salary and benefits only.** The sponsors are unwilling to amend the bill to meet the Governor's objections. At the recent Employee Relations Institute of the League, a representative from PORAC confirmed the stalemate, but added, "The bill will someday be law." The stalemate could be resolved very quickly. You are **strongly encouraged to**

continue the pressure on Legislators and the Governor's office; and to keep the issue in front of the local media.

The City Response. It has always been the presumption of the League that compulsory and binding arbitration is a "hill-to-die-on" issue. It is the antithesis of the local control and the authority of local elected officials to decide and prioritize the allocation of resources in the community. However, the response from cities on the bill has been less enthusiastic than expected. The following tally of correspondence on SB 402 was compiled in February from files at the League office:

- **52 cities have sent correspondence to the Legislature indicating that the city council has taken action to oppose SB 402.**
- **In addition, 50 cities have sent correspondence on city letterhead to the Legislature or Governor expressing opposition to SB 402, but do not indicate that city council action has been taken.**
- **There are now 474 incorporated cities in the state of California.**

This tally of correspondence is not scientific, but seems to indicate that the solid opposition from cities one would expect on an issue of this importance is not in evidence. If you believe this record is in error or a piece of correspondence was not captured in our files, please contact the League office and send us a copy of the correspondence sent to your Legislator and the Governor's office. If the city council has taken a public position on SB 402, tell your Legislator and the Governor; and, tell us too! **The point is: If city councils will not go on record publicly against SB 402, don't expect your Legislator to vote NO on the bill!** Thanks.

Again, don't forget:

Media Contact. Newspapers have generally supported the position of local government against SB 402. Please make contacts **NOW** with newspaper groups and other media in your community!

Community Groups. Make outreach efforts to community groups with direct interest in all city services, the quality of life and business climate in the community. These groups can also be influential with Legislators and the Governor.

When the proponents begin to move the legislation, we will be contacting you again and requesting letters, FAX messages and phone calls to Legislators and the Governor's office in opposition to the SB 402.

FACT SHEET

Compulsory and Binding Arbitration SB 402 (Burton)

League of California Cities

FACTS ON SB 402

Establishes Compulsory and Binding Arbitration. SB 402 amends the Code of Civil Procedure, Title 9.5 to establish a system of compulsory and binding arbitration for the resolution of collective bargaining disputes with police and fire personnel from cities and counties. September 1999 amendments removed the state public safety employees from the bill

Mandates Compulsory and Binding Arbitration for Local Government Police and Fire Employees. The establishment of compulsory and binding arbitration for the resolution of collective bargaining disputes is a mandate on local government for which the state is responsible. Both the Assembly Appropriations Committee and the Department of Finance recognize this mandate.

Statutory Legislative Findings. The measure enacts “legislative findings and declarations” regarding the need for the arbitration procedures proposed by the bill, stating, in part, that strikes taken by firefighters and law enforcement officers against public employers are a matter of statewide concern and are not in the public interest. Additionally, these findings and declarations state that the dispute resolution procedures contained in this bill provide the appropriate method for resolving public sector labor disputes that would otherwise lead to strikes by firefighters or law enforcement officers. Finally, the bill states in the intent section that it is not the intent of the Legislature to alter the scope of issues subject to collective bargaining in this bill. That scope is now determined as any issue relating to **wages, hours and other terms and conditions of employment.**

Declaration of Impasse. The bill provides that if an impasse has been declared after the representatives of an employer and firefighters or law enforcement officers have exhausted their mutual efforts to reach agreement over wages, hours, and other terms and conditions of employment and if the parties are unable to agree to the appointment of a mediator, or the mediator appointed is unable to effect settlement, the employee organization may request, in writing to the employer, that their differences be submitted to an arbitration panel.

3-Member Arbitration Panel. Provides for a 3-member arbitration panel, with one member chosen by each of the parties and the third (who serves as chair) picked by the first two members. If the parties are unable to pick a third person, the mediator may serve as chairperson. If the mediator is unable or unwilling to serve as chairperson, the bill provides a process for choosing a person to service as chair culminating in the submission of an odd-numbered list of names by either the American Arbitration Association or the California State Mediation and Conciliation Service. Both parties then subject the list to the striking of names until only one name remains and that person is appointed to serve as chair.

Arbitration Proceedings/ Issue-by-Issue Last Best Offer. The arbitration panel is required to meet within 10 days of its establishment, or any other period to which the parties agree, to begin their investigation or to take any other action that they deem appropriate. The arbitration panel may administer oaths, and subpoena both witnesses and any information relating to the subject in dispute. Requires that, five days prior to the beginning of the arbitration panel hearings, parties must submit the **last best offer of settlement on those issues** not previously agreed to by the parties to arbitration. The arbitration panel, within 30 days after the conclusion of the hearing, or any additional period to which the parties agree, shall separately decide on each of the disputed issues submitted by selecting, without modification, the last best offer.

Last Best Offer by Package. The arbitration panel is also given the authority in the legislation to direct that five days prior to the commencement of its hearings, each of the parties shall submit **as a package the last best offer** of settlement made in bargaining as a proposal or counterproposal on those issues not previously agreed to by the parties prior to any arbitration request. The arbitration panel, within 30 days after the conclusion of the hearing, or any additional period agreed to by the parties, shall decide on the disputed issues, without modification, in the last best offer package it chooses. The **last best offer on a package** basis can be triggered only if the employer receives a written notice from the employee organization that it has elected to be subject to this approach for a settlement.

Charter Cities with Compulsory and Binding Arbitration. The measure states that it does not apply to a city or county that has adopted in its charter prior to January 1, 2000, a provision for compulsory and binding arbitration.

Sunset Clause. In September 1999 language was added to **SB 402** to sunset (terminate) the provisions of the law by January 1, 2005, unless a later enacted statute extends or deletes the law.

OTHER FACTS ABOUT SB 402

General Law City Authority. The 372 general law cities, 44 general counties and all special districts **do not have the authority in law** to adopt a system of compulsory and binding arbitration. **SB 402** would authorize compulsory and binding arbitration in 400 to 500 new local public jurisdictions in California.

Impact on a Local City Budget. In a typical full-service city, 60 percent of the city budget goes for police and fire services. Under the provisions of **SB 402**, the arbitrator would be fully in charge of 60 percent of a city's budget.

Statewide Payroll Impact. On a conservative estimate, payroll for city police and fire employees is between \$2.5 and \$3.0 billion. The provisions of **SB 402** potentially place this amount of payroll under the jurisdiction of an arbitrator not accountable to the taxpayers.

Bill Status. **SB 402** is currently on the Assembly floor and is on the Assembly's Inactive File. The bill can be withdrawn from the Inactive File at anytime and set for a floor hearing and debate. It can be taken up at anytime prior to the scheduled adjournment date for the session, which is August 31, 2000.

KEY POINTS AGAINST SB 402

League of California Cities

The KEY arguments against a system of compulsory and binding arbitration are as follows:

COSTS LOCAL TAXPAYERS TOO MUCH!

- Between \$2.5 and \$3.0 billion of city payroll for police and fire employees is moved from city elected officials and placed under the authority of an arbitrator(s).
- A City of Anaheim study found that cities with a system of compulsory and binding arbitration are on average 2 to 5 percent higher in wages than cities without compulsory and binding arbitration.
- The Legislative Counsel opined in 1980 that the arbitration process was a state-mandated cost for which the state is responsible, but it also opined that the cost of the arbitration award above the employer's last best offer is also a state-mandated cost. Estimates have this state-mandated cost for both the process and the arbitrator's award on a statewide basis in the neighborhood of \$100 million to \$300 million annually.
- The police and fire union does not have to even invoke compulsory and binding arbitration to achieve its goal; the mere fact that the union is given the threat to invoke arbitration can be used to leverage higher wages and benefits and to further erode management authority over city resources.
- The impacts of compulsory and binding arbitration cannot be examined only on a jurisdiction-by-jurisdiction basis. On a statewide basis it is reasonable to assume that arbitration awards will have a disproportionate impact on local jurisdictions that are paying below the higher paid jurisdictions; or, for suburban or rural areas that are paying below urban areas or below charter cities with a system of compulsory and binding arbitration.

ACCOUNTABILITY TO TAXPAYERS LOST

- Under the provisions of the bill, the police or fire union can unilaterally invoke the process of compulsory and binding arbitration over the objection of the employer. When arbitration is invoked, the elected city officials in charge of city services are no longer in charge of approximately 60 percent of the budget (the approximate percentage of a police and fire budget) of a full-service city.
- The experience in other states and California charter cities that conduct collective bargaining with police and fire employees under a system of compulsory and binding arbitration is that the arbitrator(s) operates under little or no restraint on his or her authority to make an award. Language has been placed in SB 402 to give the appearance of adding restraints on the arbitrator(s). In practice, it means nothing!
- A California arbitrator made the following observation about the accountability of a system of compulsory and binding arbitration: **"I am not politically accountable, number one, which raises substantial questions. I could come in knowing nothing about the particular circumstances, and if they fail to educate me fully, I could easily make a grievous error."** Testimony of a University of California Law School Professor at an interim hearing of the Assembly Public Employees and Retirement Committee, December 9, 1981, San Francisco, pp. 49-51, Regarding: Present State of Law Relative to Strikes in the Public Sector.

- To further illustrate the accountability problem, a Milwaukee arbitrator demonstrated little or none of the fiscal responsibility public officials are required to have for their taxpayers. This statement is extracted from the arbitrator's award in that city: **“. . . the evidence would indicate that there are surplus funds available from which the (police) association's economic demands, if awarded, can be paid. Additional funds, if necessary, can be borrowed, and so, if the bottom line consists of HAVING TO RAISE TAXES, THOUGH DISTASTEFUL, THAT MAY WELL HAVE TO BE DONE” (Emphasis Added).** Government Employee Relations Report, Bureau of National Affairs, No. 833, October 22, 1979, pp. 23 and 24.

COMMUNITY NEEDS FORGOTTEN

- The measure completely ignores the needs/demands/requests of the community at large. Despite the “intent language” in SB 402, the operative language in the bill threatens to place the popular “community policing programs” of many communities in the hands of an arbitrator(s) for a decision about the continued existence of such programs. The community and its voters are disenfranchised. This legislation is an insult to city residents and its taxpayers.
- The proper discipline of police and fire employees for misconduct can be placed before an arbitrator(s) under the provisions of SB 402. There have been some high visibility cases of police misconduct in this state.
- The “shooting policies” of a local police department can be placed under an arbitrator(s) in the provisions of SB 402. The issues behind a department's shooting policies are always highly controversial and require/demand a high level of community involvement. Under SB 402 a community's involvement can be ignored.
- The proponents of SB 402 are asking for a very simple proposition: Put police and fire personnel ahead of all other programs and employees regardless of a community's need or the detrimental impact on other programs. The “public's safety” in a community rests not only with public safety employees, but with recreation programs, libraries and other essential services.

END OF “GOOD FAITH” COLLECTIVE BARGAINING

- “Good faith” collective bargaining that involves compromise and mutual problem solving is essential to a cooperative effort between public employers and employee unions to deliver the public services. Compulsory and binding arbitration is the end of “good faith” collective bargaining. There is no good reason to compromise no matter how unreasonable the demand. The reward for stonewalling is a hearing before an arbitrator(s) where the worse that a union can do is the employer's last best offer.
- Former Detroit Mayor Coleman Young once observed the following about the end of “good faith” collective bargaining under that city's compulsory and binding arbitration system. He said: **“As each issue is discussed at the bargaining table, the underlying position of the union is: ‘either give in or we'll arbitrate.’ There is very little good faith bargaining. There is very little mutual understanding and mutual problem solving. Compromises are not made. Either we give in to the union or they arbitrate.”** Address to “Legislative Forum on New Direction for Public Employee Relations,” Lansing Michigan, December 1979.

EXAMPLES OF ARBITRATION ISSUES AND AWARDS

The following examples from both California and other states are provided to give city officials an idea of the types of issues arbitrated and arbitration awards that have **actually occurred** under binding interest arbitration. Proponents claim that the arbitration process is very limited in its application to employment issues. These examples indicate just the opposite. It applies to virtually **every aspect of employment** no matter how inconsequential. Please note that some of the binding interest arbitration laws in other states are **more limited in scope** than the proposed SB 402 in California, indicating that California's fate may be worse.

City of Anaheim

Over eighty issues were submitted to binding interest arbitration by the union, including:

- Prohibiting increases in staffing to eliminate overtime
- Reimbursement for theft or damage to personal property while on duty
- Provision of forgivable \$20,000 interest-free home loan by the city

City's Estimated Costs (Process Only): \$150,000 to \$200,000.

City of San Jose

San Jose has had multiple arbitration experiences, including:

- Two different arbitrators awarded significant salary increases to the police and fire unions when the rest of the city was under a hiring freeze. Arbitrators considered money the city had saved from the hiring and salary freezes as an "ability to pay" for the safety union salary increases.
- Control of city council eroded by an arbitrator dictating who can and cannot be appointed to the civil service commission.

City's Estimated Costs (Process Only): \$100,000 or more.

City of Palo Alto

- Recently, firefighters were awarded a change in the City's hiring policies to allow for nepotism within the fire department.

State of Illinois

Illinois has experienced over 200 binding arbitration decisions. Some points of mention and examples include:

- A fire department arbitrated over the use of **liquid soap versus bar soap**.
- One arbitrator, known as "20% John," gave a 20% raise in the first year of a contract.
- Arbitration resulted in permitting a union to solicit merchants, residents and citizens for donations, when such solicitation had previously been prohibited.

Estimated Costs: Attorney time ranges from \$20,000 to \$40,000 per case.

EXAMPLES OF ARBITRATION ISSUES AND AWARDS (continued)

State of New York

New York has had binding interest arbitration since 1974, resulting in high costs:

- Arbitrated wage increases for local safety unions averaged 95% higher than wage increases negotiated with state safety unions (who did not have binding arbitration) during a four-year period in the 1990s.

State of New Jersey

- In New Jersey, salary increases under arbitration awards for public safety officers increased an average of 7.17% each year, compared to the national average of 2.73%.

State of Washington

- In Tacoma, an arbitrator awarded the union a 10% salary increase when the union only requested 6%. The city had offered 3%. Other similar cases exist in Washington.

RESOLUTION OPPOSING SENATE BILL 402

WHEREAS, the California Legislature is debating Senate Bill 402, authored by Senator John Burton, which mandates a system of compulsory and binding arbitration for the resolution of public sector collective bargaining disputes with police and fire unions; and

WHEREAS, Senate Bill 402 transfers the authority of the mayor and city council over the most critical services in a city's budget to an outside, non-elected arbitrator who is not accountable to city residents; and

WHEREAS, The arbitrator is given the authority to make binding decisions regarding compensation, benefits, discipline, deployment of the workforce and virtually any issue the arbitrator finds to be a term and condition of employment; and

WHEREAS, Senate Bill 402 would place at least 60% of a full-service city's budget in the control of this outside, non-elected and unaccountable arbitrator; and

WHEREAS, The Legislation gives police and fire unions first call on the city treasury to the detriment of other city services; and

WHEREAS, Senate Bill 402 gives unilateral control to police and fire unions to declare an impasse, against the wishes of the elected mayor and city council, and call for arbitration; and,

WHEREAS, a system of compulsory and binding arbitration destroys good faith collective bargaining between an employer and the employees; and,

WHEREAS, Senate Bill 402 imposes a clear and costly mandate on all local public agencies in the hundreds of millions of dollars statewide, both for the arbitration process and the cost of the arbitrator's award above the employer's last best offer; and,

WHEREAS, Proponents offer false claims that Senate Bill 402 is necessary to prevent strikes by police and fire unions when strikes by these employees are already illegal under current law and court decisions; and, now therefore be it

RESOLVED, that the City Council of the City of _____ declares its opposition to Senate Bill 402, and calls upon State legislators and the Governor to recognize the importance of local control of local budgets and public services, and to vote against this unreasonable and inappropriate intrusion on home rule; and, now therefore be it further

RESOLVED, that copies of this action by the City of _____ are being sent by the City Clerk to Assembly and Senate Members representing the City, the Governor and the offices of the League of California Cities in Sacramento.

SAMPLE LETTER FOR COMMUNITY GROUP

(Date)

(Assembly Member/ Senator)

State Capitol – Room ____
Sacramento, CA 95814

RE: SB 402 (Burton) Compulsory and Binding Arbitration. Police and Fire Employees.
Status: Assembly Appropriations Committee Suspense File: Oppose

Dear Assembly Member/Senator _____:

The _____ in the City of _____ opposes SB 402 (Burton), which mandates a system of compulsory and binding arbitration for the settlement of collective bargaining disputes between public employers and police and fire unions.

Our primary objection is that SB 402 transfers the authority over police and fire services to an arbitrator from outside of the community who is not accountable to the local taxpayers. Binding interest arbitration erodes local control by placing decisions on compensation, benefits, staffing levels and every other possible aspect of employment in the hands of this non-elected, unaccountable arbitrator. In the City of _____ this would account for over ____% of the City's budget.

In our community, as in all communities across this state, city services are determined through the give and take of community debate and dialogue. This is a necessary process to ensure that the budget meets the needs of the citizens. There is no dialogue or debate under a system of compulsory and binding arbitration. The arbitrator decides the city's priorities for its elected representatives and the community. This is unacceptable. All other services take a backseat to public safety. The Mayor and City Council were elected to city services and that's why they ran for office. Arbitrators don't run for office and are elected by no one.

The bill spells the end of good faith collective bargaining. The end of an arbitration process produces a winner and a loser. Issues are never settled, only postponed until the next arbitration. The end of the collective bargaining process produces an agreement that both sides have a stake in making sure it works. This does not occur with compulsory and binding arbitration. Both sides posture under binding arbitration to secure the best possible position before the arbitration is invoked. Binding arbitration builds labor unrest. This is not good for the community.

We urge you to vote "NO" on SB 402. Thank you for considering the impacts this bill would have on our community.

Respectfully,

Community Leader

C: Senator John Burton
League of California Cities

SAMPLE OP-ED PIECE

Dismantling Local Self-Government One Brick At A Time

Supporters of SB 402, the proposed binding arbitration mandate for police officers and firefighters now pending in the Assembly have essentially urged the Legislature to overlook one of the fundamental principles of self-government: That you only have self-government when you can hold your elected leaders responsible for how public funds are raised (i.e., taxes) and spent. Since most local governments devote more than half of their annual budgets to personnel expenses, the amount public employees are compensated and the benefits they receive is one of the most important decisions of elected officials. The supporters of SB 402, however, would have the Legislature turn these important budgetary decisions over to non-elected arbitrators. If SB 402 is enacted [without the substantial amendments offered by city and county representatives], it will be a critical blow to self-government in California and place the budgets of local governments in the hands of a small group of appointed arbitrators. The result will be a far cry from self-government and much closer to government by an appointed elite who are ultimately responsible to no one – no one's ideal of democratic self-government. It is time that local policy decisions, such as whether to allow binding arbitration at the local level, be made by local elected officials, with the oversight of the voters who elected them. It is essential that the Legislature defeat SB 402 and allow elected officials to control the budgets of cities, counties and special districts.

SAMPLE LETTER TO THE EDITOR

I oppose SB 402, which would require cities to participate in compulsory binding arbitration with local public safety personnel. Masquerading as a matter of "simple fairness," SB 402 would turn over budget decisions about pay and benefits for public safety personnel (police, firefighters, etc.) to appointed arbitrators who will have unlimited spending powers. In the final analysis, voters will lose all control over spending decisions about public safety personnel. Instead, a group of appointed arbitrators will determine the spending level appropriate for this purpose – no matter how dire the needs of other areas of the local government's budget. For the sake of controlling spending, preserving the right to set local priorities, and avoiding setting a precedent that will extend to other employee groups, I (we) urge the Legislature to defeat SB 402.

Passion Star News

9-21-71

Arbitration is wrong answer

SB402

EDITORIAL

WE'RE dead set against a proposal that would take away local government's ability to negotiate with public safety unions, replacing it with state-mandated binding arbitration.

That's exactly what SB 402 will do. Set to go before the Senate Appropriations Committee today, President pro tem John Burton's far-reaching, irresponsible bill would hold all other local services hostage to police and fire needs

and virtually strip elected officials of their ability to set reasonable spending limits for their cities and counties.

Most lawmakers already put police and fire high on the list of funding priorities, as they should. The vast majority of residents want it that way and we agree — public safety must come first. However, we cannot give a stamp of approval to any attempt to wrest local control from those duly elected by the people.

Unlike elected officials, arbitrators, who would have the final say in issues ranging from salary to working conditions, aren't accountable to the voters. That's the most compelling reason we can think of to ax this union power grab. Arbitrators have shown in other cases that they have no qualms about

meet union demands. "No" doesn't seem to be part of the arbitration vocabulary.

Neither does good-faith bargaining. In other jurisdictions, elected officials soon learned that compromise and mutual understanding were quickly replaced with the threat of arbitration. And, it only takes one union member

to force any and all contract items to arbitration.

Firefighters and police are using the ruse that binding arbitration will prevent strikes. However, state law already

prohibits public safety employees from striking, so there's really no public good inherent in this wrong-headed policy change.

Passage of this legislation could and likely will open the way for compulsory and binding arbitration for all public employee groups with the promise of more and more taxes to meet escalating salaries and benefits likely under this plan.

SB 402 is little more than legal picking of the public pocket. The electorate is tired of paying off political supporters, whether they come from industry or organized labor.

Call local lawmakers on the Appropriations Committee, Sens. Martha Escutia, D-Whittier, at (323) 724-6175 and Richard Mountjoy, R-Arcadia, at (626) 446-8134 and tell them

Monterey, CA
(Monterey Co.)
Monterey Co. Herald
(Cir. D. 33,600)
(Cir. S. 35,300)

APR 30 1999

Allen's P. C. B. Est. 1888

OTHER VIEWS

Mandated arbitration a bad idea

Deceptively and pretentiously titled the Burton-Villaraigosa Public Safety Assurance Act, SB 402 is one of the most dangerous threats to the budgets of California cities and counties and the authority of local elected officials ever introduced in the California Legislature.

Authored by the two most powerful members of the legislature, Senate President Pro Tem John Burton and Assembly Speaker Antonio Villaraigosa, and sponsored by their influential political backers — police and firefighter unions — the bill mandates binding arbitration for police and firefighters, which is a very bad idea.

Binding arbitration is a bargaining system that takes away from elected representatives the power to approve police and firefighter contracts and places that power into the hands of unelected arbitrators. Thus, under the bill, the most fundamental decision public officials are elected to make — how to spend our tax money — would be given over to arbitrators elected by, and accountable to, no one.

SB 402 doesn't just deal away the power of local elected officials to manage city and county budgets. It also

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seriously compromises the ability of police and fire chiefs and county sheriffs to manage their departments and their officers. If the unions demand it, the arbitrators, not the police or fire chief, can decide how many officers to deploy in a given sector of the city or a fire station; when or if to discipline an officer and how; even the staffing levels of patrol cars or detective divisions. The issues potentially to be arbitrated are endless.

Proponents of the legislation say it will promote labor peace by banning police and firefighter strikes. They ignore the fact that strikes by public safety officers are illegal.

Police and firefighters in California are among the best-paid and pensioned in the country. At top step, a sheriff's deputy in

Sacramento County receives \$3,835 a month in salary. If the deputy has a bachelor's degree, with salary and benefits, she can bring home \$6,674 a month, or more than \$80,000 a year. Union representatives who are pushing SB 402 want more. They are betting that binding arbitration will get it for them, and that's a threat to other public employees. Richer contracts for police and firefighters mean less for social workers, street cleaners, mental health counselors and other dedicated public servants. How does SB 402 protect their interest?

The Burton-Villaraigosa measure is opposed by the League of California Cities, the California State Association of Counties, California Police Chiefs' Association and the County Sheriffs' Association. It is potentially devastating for local governments and a threat to public safety. It should be defeated.

— Sacramento Bee

Fresno, CA
(Fresno Co.)
Fresno Bee
(Cir. D. 153,000)
(Cir. S. 185,000)

APR 29 1999

Allen's P. C. B. Est. 1838

More binding arbitration

Burton and Villaraigosa attack local governments. 1412

Deceptively and pretentiously entitled the Burton-Villaraigosa Public Safety Assurance Act, SB 402 is one of the most dangerous threats to local budgets and the authority of local elected officials ever introduced in the Legislature.

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SB 402 doesn't just deal away the power of local elected officials to manage city and county budgets. It also seriously compromises the ability of police and fire chiefs and county

sheriffs to manage their departments and their officers. If the unions demand it, the arbitrators — not the police or fire chief — can decide how many officers to deploy in a given neighborhood or fire station; when or if to discipline an officer and how; even staffing levels. The issues potentially open to arbitration are endless.

Proponents of the legislation say it will promote labor peace by banning police and firefighter strikes. They ignore the fact that strikes by public safety officers are illegal. Do advocates of arbitration mean to suggest that unless they win police officers will break the law they've sworn to uphold and strike?

Police and firefighters in California are among the best paid and pensioned public employees in the country. Union representatives who are pushing SB 402 want more. They are betting that binding arbitration will get it for them and that's a threat to other public employees. Richer contracts for police and firefighters mean less for social workers, street cleaners, mental health counselors and other dedicated public servants. How does SB 402 protect their interest?

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San Rafael, CA
(Marin Co.)
Marin Independent
Journal
(Cir. D. 41, 1
(Cir. S. 4, 180)

JUN 18 1999

Allen's P. C. B. Est. 1888

1412 City councils stand against bill for binding arbitration

By Richard Halstead
IJ reporter

A state bill that would require municipalities to enter binding arbitration with police and firefighters in case of an impasse in contract negotiations is opposed by an overwhelming majority of city council members in Marin.

At a recent meeting of the Marin County Council of Mayors and Councilmembers, almost every city and town in Marin — with San Anselmo the only exception — announced its opposition to the legislation.

"The overwhelming majority feel this is an attack on home rule and local control," said San Rafael Town Manager Rod Gould. "It would mean higher costs for public safety, which would come at the expense of quality-of-life services."

Gould said he sees no need for such legislation, since police and fire workers are well paid. "This is medicine for a patient who isn't sick," he said.

San Anselmo Mayor Paul Chignell, however, said he does not believe binding arbitration would result in higher outlays for police and fire salaries. "The evidence on arbitration doesn't show that," said Chignell, a San Francisco police lieutenant.

Existing law allows police and fire workers to unionize but prohibits them from striking, said Fairfax Councilman Frank Egger, also a dissenter. "This is a means to allow a contract conflict to be resolved," Egger said.

In recent years, Fairfax police have repeatedly worked months without a contract because of drawn-out negotiations, Egger noted. "We ran about nine months behind on the last contract," he said.

"This bill is going to pass. It is going to be signed by the governor," Chignell said. "We should work with the author."

The legislation, now in the Assembly, has passed the state Senate, where it was introduced by President Pro Tem John Burton.

Under the bill, municipalities could avoid the requirement by placing an initiative on the ballot before the end of 2000 and having a majority of voters reject the requirement, said Dwight Stenbakken, a lobbyist with the League of California Cities.

Stenbakken says he would like to see that reversed — so that only cities that wanted arbitration have to get the approval of voters.

Gould said that requiring towns to pass initiatives to stave off arbitration "is a recipe for ugliness."

Los Angeles, Cal.
(Los Angeles Co.)
Los Angeles Times
(Cir. D. No. 164,338)
S. 1,531,527

Allen's P. C. B. Est. 1853

Let's Keep Control of Local Spending

■ **Legislation:** Don't let arbitrators decide police and firefighter contracts. 1412

By JEFFREY SLOAN

One of this year's most sweeping and costly legislative bills began its stealthy flight through the state Legislature under the radar of most of the California media.

This bill bears the ironic title, the "Burton-Villaraigosa Public Safety Assurance Act." Far from ensuring public safety, the bill would wrest away decisions about millions of dollars worth of police and fire labor contracts from elected mayors, city councils, boards of supervisors, local voters, the state of California (for state public safety personnel, including the California Highway Patrol), and even private employers of safety personnel, instead investing these powers in unelected, unaccountable arbitrators.

The bill requires that disputes involving the wages, hours and working conditions of firefighters and police throughout California be resolved by professional arbitrators, paid half by labor unions and half by government. This process is called "interest arbitration." Police and firefighters unions support the bill, the California State Assn. of Counties and the League of California Cities oppose it.

Public safety unions have contributed handsomely to political campaigns, hoping to win support for this bill. Yet the public agencies it will affect are legally prohibited from making contributions. Consequently, this legislation is on a fast track. For a number of reasons, taxpayers will need to get a tighter grip on their wallets if this legislation passes.

First, interest arbitration invests enormous powers in arbitrators to make policy for local government—more power than a mayor, city council, police chief or even the voters. Unlike other forms of arbitration, this type empowers arbitrators to write a contract that includes terms that one or even both parties oppose.

Second, arbitrators are unaccountable to elected officials or the voters. Frequently, they live outside the city or county that their decisions affect. They rarely have fiscal or government policymaking experience and they usually are unfamiliar with a city or county's existing pay practices, public needs or policy priorities. This bill would empower them to effectively rewrite city budgets.

Third, interest arbitration is a long, expensive and adversarial process. Arbitration cases are like court cases, with lawyers, witnesses, exhibits and briefs. The arbitrator acts as judge, jury and executioner with sweeping powers to compel employers to adopt contracts they can't afford. Even the courts' powers are usurped: An arbitrator's decision is final and binding and rarely can be undone, even if the arbitrator misapplied the law.

Fourth, interest arbitration isn't just about setting compensation. The bill would compel public safety agencies to arbitrate such issues as work rules, changes to police or fire department general orders and discipline procedures. The arbitrator—not the police or fire chiefs—would effectively determine whether a county could adopt new procedures for putting out fires or fighting crime.

Fifth, because the arbitrator selection process requires that an arbitrator be acceptable to both parties, the pool of candidates includes many who cannot say

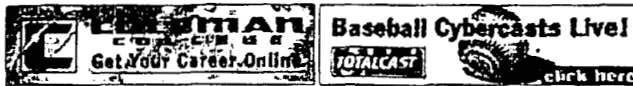
"no" to demands for wage or benefit improvements, even when the public interest requires it. For example, public sector unions often demand sizable wage increases for their members at the same time that the public agency is experiencing serious fiscal problems. In interest arbitration, the odds will be no better than 50/50 that the arbitrator will decide to protect public resources rather than require additional wages or benefits.

Finally, interest arbitration does not change relationships for the better or eliminate the possibility of strikes, as its proponents argue. Rather, it offers a legalistic alternative to the more balanced process of reaching agreement through bargaining. This is why commentators say that interest arbitration has a "narcotic" effect on bargaining.

Emotion tends to dominate discussions of how police and firefighters' contracts should be set. Public safety personnel put their lives on the line and the public values the work they do. Unquestionably, these workers deserve to be paid fairly. But who should determine what is "fair?"

The trend in nearly every other arena in which public moneys are at issue is toward greater democracy, public disclosure and public involvement. If the process is abused, the public has the most democratic review process available: the ballot box. This bill would effectively silence the voice of California voters, and it would increase the cost of public services, with California taxpayers and businesses picking up the tab.

Jeffrey Sloan, an attorney in San Francisco, represents public employers on labor and employment law matters, including interest arbitrations. E-mail: jsloan@cdhkk.com.



The San Diego Union-Tribune

(Page G-2)

File
SB403

Binding arbitration bill | A blank check for public safety labor unions

16-May-1999 Sunday

It is clear why Assembly Speaker Antonio Villaraigosa, D-Los Angeles, and Senate President Pro Tempore John Burton, D-San Francisco, want to mandate binding arbitration for California police and firefighters. These Democratic leaders are politically beholden to the powerful labor unions that represent public safety personnel, who stand to gain from the legislation.

But there certainly would be no benefit for cities and counties, which would be saddled with the fiscally reckless process of arbitration. Indeed, the big losers would be taxpayers. They would be forced to foot the bill for expensive contracts for police and firefighters under the guise of conflict resolution.

The Public Safety Assurance Act -- talk about euphemisms -- would require that arbitrators set the terms of contracts when the two parties do not reach agreement at the bargaining table. In other words, third-party referees would be called to end stalemates, but their mere presence under state law would encourage stalemates.

As a practical matter, arbitrators would crunch the numbers and arrive at an "equitable" pay raise. The term equitable, however, is very subjective to unelected and unaccountable arbitrators who would not have to find the money to pay for the mandated raise.

Public officials are responsible for protecting the public's finances. That's one of the reasons why elected officials are required to do the public's business in the open. But arbitrators are not responsible to the public, let alone to taxpayers caught in the cross-fire of a labor dispute.

The Villaraigosa-Burton bill is bad news in nonmonetary matters as well. It would erode the authority of police and fire chiefs, along with county sheriffs. Under the measure, labor leaders could demand that the arbitrator determine the deployment of personnel and intervene in disciplinary cases. In short, it could give third parties considerable sway over how law enforcement and fire-fighting departments are managed.

Burton, Villaraigosa and the bill's other backers contend it is needed to ensure labor peace by preventing police and firefighters from striking. But that's a canard. Public safety professionals already are prohibited by state law from walking off the job. That is the way it should be, because strikes by public personnel jeopardize the safety of those they are supposed to protect.

This measure is a time bomb that could blow a gaping hole in city and county budgets. No wonder it is opposed by a slew of organizations, including the California Association of Counties, the League of California Cities, the County Sheriffs' Association and the California Police Chiefs' Association.

If this bill is rammed through the Legislature by the Democratic leadership, Gov. Gray Davis should stand up to this powerful -- and traditionally Democratic -- special interest and veto it.

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Press-Telegram

(Long Beach)

May 30, 1999

SUNDAY FORUM

Local budgets threatened by arbitration bill

By John Liebert

Imagine that control over the largest part of your city's budget was taken away from your local, elected representatives and given to a labor arbitrator who is accountable to no one. This is exactly what the state is threatening to do.

There is a bill making its way through the state Legislature that will take the bargaining authority for police and firefighter compensation and working rules out of the hands of locally elected officials and put it in the hands of unelected and unaccountable third-party arbitrators. Drafted by police and firefighter unions, the bill, SB 402, enables union representatives to opt for binding arbitration during labor contract negotiations. Under this proposed system, private labor arbitrators make the final decision on all issues on which the parties cannot agree. If a mutual agreement on any dispute cannot be reached through direct bargaining, the bill would permit unions, but not cities or counties, to compel binding arbitration. In essence, SB 402 would give firefighter and police unions a costly, unfair advantage over public agency employers in labor contract negotiations and would undermine good-faith collective bargaining.

Traditional labor contract negotiations between public agencies and employee unions place both parties on equal footing. Either side is free to fight for those issues deemed most important to its constituency. Compromises are made until a final agreement is reached. Under the proposed legislation, this system would be turned on its head.

The process of arbitration sounds like a fair way of resolving contract impasses. However, when only one of the parties can invoke the option, it becomes a tool of intimidation. Under SB 402, once the unions compel arbitration, the arbitrator must decide between the "last best offers" of the two parties. The worst the unions could expect under the proposed system would be the employer's last best offer.

Should the bill pass, there would be no reason for police and firefighter unions to compromise in order to reach an agreement. The unions' mantra for every demand will be "either give in or we will force arbitration." This refusal to compromise and subsequent arbitration will turn an already lengthy process into a costly ordeal lasting many months or even years, all at taxpayers' expense.

Who exactly will these arbitrators be? Under the current system, taxpayers can hold elected officials accountable for decisions they make, and the costs they agree to, in the local government collective bargaining process. Under the proposed bill, once union representatives force the bargaining process into arbitration, a private arbitrator will make the final determination. The arbitrator will be accountable to no one. As one California labor arbitrator stated in connection with a public agency arbitration, "I am not politically accountable, number one, which raises substantial questions. I could come in knowing nothing about the particular circumstances, and if they fail to educate me fully, I could easily make a grievous error." The proposed legislation will take the decision-making power away from those in the best position to make budgetary decisions — local government.

Proponents of SB 402 maintain that the bill will prevent police and firefighter strikes by making them illegal. Such strikes are already prohibited under California law, but have at times occurred nevertheless. SB 402 provides no punishment or sanctions for unions or employees who decide to strike regardless of the law.

The present draft of SB 402 encompasses all types of issues traditionally addressed in the collective bargaining process — from compensation to standards of conduct and performance, scheduling, staffing, deployment and promotion. Experience in scheduling, staffing, assignments and promotions, and the effect those actions have on community safety, and on such programs as community policing and diversification of the workforce, is essential to making informed decisions in local labor negotiations. This knowledge rests with the responsible professionals — the police and fire chiefs — and ultimately the elected city or county governing body, not with an unaccountable and untrained, state-mandated private arbitrator.

SB 402 caters to labor interests at the expense of local representative governance. The state should stay out of the collective bargaining negotiations between California cities and counties, and their employees.

John Liebert is a founding partner of Liebert, Cassidy & Frierson. The labor and employment law firm with offices in Los Angeles and San Francisco represents numerous cities and public entities throughout California.

Sacramento, CA
(Sacramento Co.)
Sacramento Bee
(Cir. D. 270,000)
(Cir. S. 338,000)

JUN - 9 1999

Allen's P.C.B. 1-1-1988

SB 402 would almost certainly undercut the authority of police and fire chiefs to determine staffing and might eventually edge into issues of employee discipline

The Democrats' local unaccountability bill

Among all the attempts to bring back some order to the governmental mess created by two decades of California initiatives, the most promising, and certainly the most visible, has been the Speaker's Commission on State and Local Government Finance.

The commission, which includes a wide spectrum of Californians - state and local government officials, business executives, labor leaders, civic activists - was formed earlier this year by Assembly Speaker Antonio Villaraigosa in an effort to restore some autonomy and accountability to local government and, in general, some order to a system of governance that's often dysfunctional and nearly always incomprehensible. Villaraigosa himself has spoken eloquently about the confusion and voter alienation that the California nonsystem has produced.

But last week the Democratic state Senate passed a bill, SB 402, that will inflict more damage on local control and accountability than the commission can reasonably expect to fix. In effect, SB 402 would take most of the bargaining power that local governments now have in setting the salaries of firefighters, police officers and thousands of other public safety employees, and hand it to outside arbitrators accountable to no one but themselves. Elected local offi-



PETER SCHRAG

cials, who have already been stripped of virtually all authority to raise revenue, would thus be stripped of a major part of the power to control spending as well.

One of the two chief sponsors of that bill is Senate President Pro Tem John Burton. The other is Villaraigosa himself.

Villaraigosa says it's a fairness issue for workers with tough jobs who are not allowed to strike - a safety valve that "won't unduly burden local government." But the real explanation looks a lot simpler. When it comes to paying off political debts from big contributors and faithful supporters - and for Democrats, none are bigger or more faithful than the public employee unions - it's no contest. This, as the late Sen. Milton Marks once told a staffer, is about labor, not local government.

The bill covers a broad range of government employees, state and local - firefighters, police officers, sheriffs

deputies, parole officers, park rangers, correctional officers, school cops, the California Highway Patrol. In cases where their negotiations with state and local employers reach an impasse, each side would name an arbitrator. Together, they would name a third, presumably neutral, arbitrator who would have the power to impose a settlement based on the last best offer of one of the parties.

The arbitrator is supposed to consider a range of factors in making his decision, among them wages, hours and working conditions of similar workers elsewhere, the consumer price index, the availability of funds to pay for the settlement and the public interest. In theory that sounds even-handed; in practice, as one observer put it, arbitrators can only get work if they support unions half the time and management half the time. And since the prevailing wage somewhere else is almost always higher, the process ratchets up costs everywhere.

The easiest way to understand the issue is to see who's for this bill and who's against it: On one side virtually every state and local union of cops and firefighters; on the other, the California State Association of Counties, the California Police Chiefs Association, the California State Sheriffs Association, the California Fire Chiefs Association and the League of California Cities, as well as scores of individual cities, from

Alameda to Whittier.

California's cops and firefighters are already among the best compensated in the country, and the state's spending for public safety one of the highest in the nation. But the stakes here go well beyond bread-and-butter issues. Although SB 402 would cover only "wages, hours and other terms and conditions of employment," the last is an elastic term: There's no way to tell how far its impact will go. But it would almost certainly undercut the authority of police and fire chiefs to determine staffing and might eventually edge into issues of employee discipline as well.

More immediately, it would sharply reduce what little accountability local agencies - cities, counties, special districts - still have to manage their own affairs.

Even now, responsibility is often hard to assign; when money runs out and programs are cut, is it the fault of the local officials who overspend or does the blame belong to the politicians in Sacramento who fail to appropriate enough to cover mandated costs? It's that kind of buck-passing that Villaraigosa's commission is supposed to concern itself with. But if SB 402 hands control over a large part of the local budget to an arbitrator who's not even known to the voters, the opportunity for fiscal mischief and buck passing would

be greater still.

Which brings the story to what's perhaps the most cynical part of this bill. The California Constitution requires the state to compensate local agencies for certain costs mandated by the state. To get around that requirement, which could potentially cost the state billions, the authors wrote into SB 402 a provision that would allow each local jurisdiction to seek voter approval to exempt itself from the requirements of the bill. That, in theory, makes binding arbitration optional and thus not a mandate. But since only the public employee unions have both the big bucks and the interest to engage themselves in such an election, the whole provision is a farce.

The proponents assert that the measure would foster labor peace among California's public safety employees. But what's most likely to be fostered is more dysfunctional government, and more voter cynicism and alienation. The bill still needs approval in the Assembly and the governor's signature; Villaraigosa says it's a work in progress that could still change, but it's hard to imagine how. What's the speaker's commission going to do with this little stink bomb?

Peter Schrag's column appears in *The Bee* on Wednesday. He can be reached by fax at 321-1996; or by letter at Box 15779, Sacramento, CA, 95852-0779.

OPINION

THE INDEPENDENT

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EDITORIAL

Legislature undermines local government

City managers around the county are expressing concern with SB 402, which was passed by the State Senate recently. The law would take away most of the bargaining power that local governments have in setting the salaries of firefighters, police officers, and thousands of other public safety employees.

In its place, the bill would turn over that power to outside arbitrators, who would be left accountable to no one but themselves. This bill would put another damper on the responsibilities of elected local officials who have already been stripped of all authority in raising revenues. Now a giant share of budget spending would be decided by outside arbitrators.

Sponsors of the bill argue that it is a fairness issue for workers with tough jobs who are not allowed to strike and characterize the legislation as a safety valve that won't unduly burden local government. But they are wrong. If a locally elected council member or supervisor agrees to a salary contract that is unpopular with the public, the voters can throw the person out of office.

If, on the other hand, an outside arbitrator comes in and makes an unpopular decision, there is no public recourse and no public accountability. Covered in the bill are firefighters, police officers, sheriffs deputies, parole officers, park rangers, correctional officers, school cops and the California Highway Patrol.

The bill provides that in cases where negotiations reach an impasse with state and local employers, each side would name an arbitrator. Together they would name a third party, who would be impartial, to impose a settlement based upon the last best offer of one of the parties.

But the fly in the ointment is that arbitrators would be at the mercy of unions and management, who would decide the negotiator's future employment based on how they satisfy both sides in salary disputes. It takes the management of salaries for public safety employees out of the hands of elected office holders and once again, places authority in the legislature.

The California Constitution requires the state to compensate local agencies for certain costs mandated by state law. To circumvent that requirement, which could cost the state billions of dollars, the authors wrote a provision in SB 402, that would allow each local jurisdiction to seek voter approval to exempt itself from requirements of the bill. That in theory would make bidding arbitration optional and thus not a mandate.

So fasten your seat belts and get ready for the approaching elections because public safety employees are coming after us. They will be seeking voter approval of this provision and ready to spend whatever it takes to win these elections. It will be another dividend pool preventing good government on a local level and leading citizens to believe it's just bad legislation.

We accept hometown news, calendar submissions, engagement and wedding announcements, birth notices, obituaries and other items of local interest. Submissions should be mailed at least two weeks prior to the date of publication. All items are run on a space-available basis. For more information on submitting and publishing news in our various publications, please contact the following editors:

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March 23, 2000

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The Honorable Gray Davis
Governor of the State of California
State Capitol – first floor
Sacramento, California 95814

Dear Governor Davis:

The purpose of this letter is to reaffirm the opposition of the California Police Chiefs' Association to Senate Bill 402, which deals with binding arbitration for police and fire services. This bill has been removed from the Assembly Inactive File and may be voted on at any time.

Representatives of the California Police Chiefs' Association recently met with Marty Morgenstern, of your staff, in connection with SB 402. We pointed out to him that SB 402 is so broad that fundamental public safety decisions are effectively removed from a sheriff (who is directly accountable to the voters) or from a chief of police (who is accountable to a community through his/her city council). Instead, those decisions are placed in the hands of a third party arbitrator who is not accountable to anyone. Moreover, these public safety decisions will be made by people with no public safety expertise. SB 402 effectively undermines decades of law enforcement professionalism and public accountability.

While it may be true that "working conditions" or "other terms and conditions of employment" are within the scope of binding arbitration in other industries, the public safety "industry" is unique. It is impossible to permit binding arbitration of "working conditions" or "other terms and conditions of employment" without encroaching on the delivery of public safety services to a community.

For example, under SB 402, the issue of creative staffing designs of an agency, the issue of whether or not to have a SWAT team or a K-9 unit (or the question of the level of training required to serve in those specialized units), deployment policies, domestic violence response policies, even the question of the firearms officers may carry in the field could all be subject to the decision of an outside arbitrator who possessed neither public safety expertise nor public accountability for his/her decision.

The recent Rampart Division scandal - probably the most serious police scandal in the history of this state - is rooted in the failures of management and the hamstringing of management. The recently released Board of Inquiry report on the Rampart scandal eloquently noted how limitations on management's ability to run the department committed to the scandal. Senate

The Honorable Gray Davis
Governor of the State of California
Page 2

Bill 402 would institutionalize those limitations on police management into state law - an unsuitable public policy when viewed against the backdrop of Rampart Division.

Effective public safety policy depends on the public trust. Given that reality, it seems singularly inappropriate to place so many important elements of public safety policy in the hands of someone who is not accountable to the public we are sworn to serve.

If this bill comes to you in its current form, I would respectfully request that the California Police Chiefs' Association be given the opportunity to show you - with specificity - how this bill will impair the delivery of public safety services to our communities.

Thank you for your attention to our views.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. T. Steckler', followed by a horizontal line.

CRAIG T. STECKLER
CHIEF OF POLICE
PRESIDENT, CALIFORNIA POLICE CHIEFS' ASSOCIATION

CTS/bdh

RESOLUTION NO. 2000-50

A RESOLUTION OF THE LODI CITY COUNCIL OPPOSING
SENATE BILL 402, WHICH MANDATES A SYSTEM OF
COMPULSORY AND BINDING ARBITRATION FOR THE
RESOLUTION OF PUBLIC SECTOR COLLECTIVE
BARGAINING DISPUTES WITH POLICE AND FIRE UNIONS

=====

WHEREAS, the California Legislature is debating Senate Bill 402, authored by Senator John Burton, which mandates a system of compulsory and binding arbitration for the resolution of public sector collective bargaining disputes with police and fire unions; and

WHEREAS, Senate Bill 402 transfers the authority of the Mayor and City Council over the most critical services in a city's budget to an outside, non-elected arbitrator who is not accountable to city residents; and

WHEREAS, the arbitrator is given the authority to make binding decisions regarding compensation, benefits, discipline, deployment of the workforce and virtually any issue the arbitrator finds to be a term and condition of employment; and

WHEREAS, Senate Bill 402 would place at least 60% of a full-service city's budget in the control of this outside, non-elected and unaccountable arbitrator; and

WHEREAS, Senate Bill 402 gives police and fire unions first call on the city treasury to the detriment of other city services; and

WHEREAS, Senate Bill 402 gives unilateral control to police and fire unions to declare an impasse, against the wishes of the elected Mayor and City Council, and call for arbitration; and

WHEREAS, a system of compulsory and binding arbitration destroys good faith collective bargaining between an employer and the employees; and

WHEREAS, Senate Bill 402 imposes a clear and costly mandate on all local public agencies in the hundreds of millions of dollars statewide, both for the arbitration process and the cost of the arbitrator's award above the employer's last best offer; and

WHEREAS, proponents offer false claims that Senate Bill 402 is necessary to prevent strikes by police and fire unions when strikes by these employees are already illegal under current law and court decisions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi declares its opposition to Senate Bill 402, and calls upon State legislators and the Governor to recognize the importance of local control of local budgets and public services, and to vote against this unreasonable and inappropriate intrusion on home rule; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that copies of this action by the City Council of the City of Lodi are being sent by the City Clerk to Assembly and Senate Members representing the City, the Governor and the offices of the League of California Cities in Sacramento.

Dated: April 5, 2000

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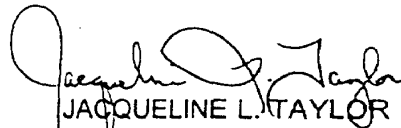
I hereby certify that Resolution No. 2000-50 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 5, 2000, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Land, Nakanishi, Pennino and Mann (Mayor)

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


JACQUELINE L. TAYLOR
Interim City Clerk